IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21078 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MILLENIUM HOUSING & COMM. CO-OP.H.SOCI.LTD. - Petitioner
Versus
TORRENT POWER AEC LTD. THR' GENERAL MANAGER & 2 - Respondents

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Appearance :
MRS FALGUNI D PATEL for Petitioner.
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.
MR DHAVAL G NANAVATI for Respondent : 3,

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 23/11/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. Mr.Dhaval G.Nanavati, learned Counsel, waives service of notice on behalf of the respondent No.3. The endorsement on the board indicates that though the respondent Nos.1 & 2 are duly served with the notice for final disposal of the petition, none of them has appeared, either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition upon the respondent Nos.1 & 2. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing the instant petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. Torrent Power AEC Limited to provide electricity connection to 30 Commercial Units constructed by the petitioner.

3. The petitioner i.e. Mr.Bharatbhai M.Patel is the Chairman of Millenium Housing & Commercial Cooperative Housing Society Limited situated near Bhaikakanagar Road, Thaltej, Ahmedabad. The Society is owner of Revenue Survey No.9/Part of Final Plot No.139/2, Town Planning Scheme No.38 of village Thaltej, Taluka : Dascroi, Ahmedabad. The society was desirous to develop the land belonging to it. Therefore, it applied to Ahmedabad Urban Development Authority to grant development permission. Accordingly, development permission was granted on September 15, 2006, which is quite evident from the contents of the document produced at Annexure-A to the petition. The case of the petitioner is that after obtaining the development permission, the petitioner has constructed 30 Commercial Units. After construction of Commercial Units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter to apply to the respondent No.1 for supply of electricity connection to the Commercial Units constructed by

him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for grant of electricity connection to the Units constructed by him. The said request has been turned down by the respondent No.1, which is quite evident from the contents of the communication dated September 27, 2006 addressed by the General Manager of the respondent No.1 to the petitioner. A copy of the said communication is produced at Annexure-B to the petition. By the said communication, the petitioner has been called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent No.1 to grant electricity connection to the Units constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed the relief to which reference is made earlier.

4. This Court has heard Ms.Falguni D.Patel, learned Counsel for the petitioner, and Mr.Dhaval

G.Nanavati, learned Counsel for the respondent No.3. As observed earlier, the respondent Nos.1 & 2 are duly served, but, none of them has appeared before the Court, nor any of them has contested the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1) The petitioner will approach the Ahmedabad Urban Development Authority for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Urban Development Authority is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent

No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to 30 Commercial Units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to 30 Commercial Units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Urban Development Authority is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Urban Development Authority shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to 30 Commercial Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to 30 Commercial Units constructed by the petitioner within a

period of fifteen days.

(6) In case the Ahmedabad Urban Development Authority does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to 30 Commercial Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to 30 Commercial Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Urban Development Authority, the petitioner will have no objection to disconnection of electricity supply provided to 30 Commercial Units constructed by it. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)